



South Dakota Public Utilities Commission



State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

May 10, 2002

EX PARTE OR LATE FILED



Mr. William F. Caton
Acting Secretary
Federal Communications Commission
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Washington, DC 20554

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Lisa Hull
Dave Jacobson
Amy Kayser
Bob Knadle
Delaine Kolbo
Gregory A. Rislov
Keith Senger
John Smith
Rolayne Ailts Wiest

RE: Ex Parte Comments: Two originals filed in In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98; Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147

Dear Secretary Caton:

This letter is intended to comply with the FCC's rules on ex parte communications. The South Dakota Public Utilities Commission (SDPUC) has submitted written ex parte comments in the above captioned proceedings concerning the Notice of Proposed Rulemaking (Triennial Review) in the above-captioned proceedings.

Enclosed are two copies of the written comments. If you have any questions about this correspondence, please do not hesitate to contact me at 605-773-3201.

Sincerely,

Rolayne Ailts Wiest

ROLAYNE AILTS WIEST
SDPUC ATTORNEY

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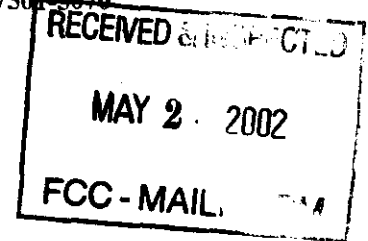
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ORIGINAL
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Commissioner Kathleen Q. Abernathy
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445 12th Street SW, Room 8-A204
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Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street SW, Room 8-A302
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Commissioner Kevin J. Martin
Federal Communications Commission
445 12th Street SW, Room 8-C302
Washington, DC 20554

RE: Ex Parte Comments: Two originals filed in *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98; *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147

Dear Commissioners:

The South Dakota Public Utilities Commission (SDPUC) is writing this letter in support of the National Association of Regulatory Utility Commissioners ("NARUC") comments filed in the Notice of Proposed Rulemaking ("Triennial Review NPRM") issued by the FCC in the above-captioned proceedings.

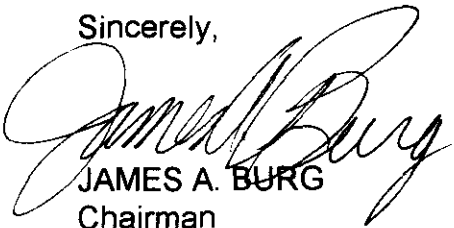
The SDPUC agrees with NARUC that State commission authority to impose unbundling requirements that exceed those imposed by the FCC must be maintained. As stated by NARUC, "State regulators have access to the detailed real-world information that is essential to reasoned decision-making on this issue, employ procedures (such as discovery and cross examination) that are most compatible with

fact-finding and verification, and are in the best position to balance competitive policies with the regulatory/deregulatory framework that governs the ILECs operating within their jurisdictions." NARUC Initial Comments at 7.

The SDPUC also agrees with NARUC that the FCC should not limit the availability of UNE-P. See Triennial Review NPRM at ¶¶ 45-46. Given the expertise of the State commissions concerning the level of competition in their states, decisions regarding the availability of UNE-P should not be circumscribed by the FCC. Moreover, if the FCC decides to remove or restrict the availability of any UNE, State commissions should not be bound by these decisions. Rather, each State commission should be allowed to decide whether any such UNE removal or restriction is justified under the "necessary" and "impair" standards established by section 251(d)(2) or whether the UNE is required by State law or rule.

Finally, the SDPUC joins in NARUC's request that the FCC convene a section 410(b) Federal-State Joint Conference to facilitate its implementation of the triennial UNE review. The SDPUC believes the participation of the States in the Joint Conference will serve the public interest and result in an informed decision by the FCC on these issues.

Sincerely,


JAMES A. BURG
Chairman


PAM NELSON
Commissioner


ROBERT K. SAHR
Commissioner

cc: Honorable Tom Daschle
Honorable Tim Johnson
Honorable John Thune
Ms. Dorothy Atwood, CCB